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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,021	08/16/2006	Dennis G. Griepentrog	1335.367	9304
23598 7590 10/29/2008 BOYLE FREDRICKSON S.C. 840 North Plankinton Avenue MILWAUKEE, WI 53203				
EXAMINER				
WHITE, RODNEY BARNETT				
ART UNIT		PAPER NUMBER		
3636				
NOTIFICATION DATE		DELIVERY MODE		
10/29/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

### Office Action Summary

**Application No.**

10/598,021

**Applicant(s)**

GRIEPENTROG, DENNIS G.

**Examiner**

Rodney B. White

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 September 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,7,9-12 and 15-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,3-5,7,9-12 and 15-19 is/are rejected.  
7) ☒ Claim(s) 20 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's arguments with respect to claims 1, 3-5, 7, 9-12, and 15-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Bujaryn (U.S. Patent No. 5,542,746).

Bujaryn teaches the structure substantially as claimed including a mobile desk adapted to be supported by a support surface such as a floor, comprising: a base including a front base member and a rear base member, and a central axial base member extending between and interconnecting the front base member and the rear base member, wherein each of the front and rear base members defines a pair of spaced apart, outwardly facing ends located one on each side of the central base member, wherein the front and rear base members include rollers 1 that engage the

support surface; an upwardly extending seat support member 4 defining a lower end secured to the base; and extending upwardly from the base in a fixed angular relationship relative to the central axial base member, wherein the seat support member defines an upper end spaced above the lower end, and wherein the upper end of the seat support member defines an upwardly open passage; a seat 7 interconnected with a seat mounting member in a fixed angular relationship (when the seat is locked in its selected position), wherein the seat mounting member is engaged within the upwardly open passage of the seat support member and secures the seat to the seat mounting member in a fixed angular relationship (when the seat is locked in its selected position), wherein the seat mounting member and the seat support member function to support the seat above the base; a seat height adjustment arrangement interposed between the seat mounting member and the seat support member for varying the elevation of the seat above the support surface; an upwardly extending worksurface support member 16 defining a lower end rigidly secured to the base and extending upwardly from the base in a fixed angular relationship relative to the central axial base member, wherein the worksurface support member defines an upper end 16a, 16b spaced above the lower end, and wherein the upper end of the worksurface support member defines an upwardly open passage (since 16a and 16b are telescopic with respect to one another and therefore 16b has an "upwardly open passage", See Figures 23 and 26); and a worksurface 16c interconnected with a worksurface mounting member in a fixed angular relationship (see Figures 23 and 26), wherein the worksurface mounting member is engaged within the upwardly open passage of the worksurface support member and

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secures the worksurface to the worksurface mounting member in a fixed angular relationship (See Figures 23 and 26), wherein the worksurface mounting member and the worksurface support member function to support the worksurface above the support surface; and a worksurface height adjustment arrangement (telescopic members 16a,16b) interposed between the worksurface mounting member and the worksurface support member for varying the elevation of the worksurface above the support surface, wherein the adjustable height seat mounting arrangement comprises a cylinder assembly including a cylinder and an extendible and retractable rod 6b or 6c, and further comprising an actuator secured to an underside defined by the seat for providing selective extension and retraction of the rod to adjust the height of the seat, wherein the front base member, the rear base member and the central axial base member lie in a common plane oriented parallel to the support surface.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-4 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Onishi (U.S. Patent No. 6,776,452 B2).

Bujaryn in view of Childress and Loescher teaches the structure substantially as claimed including a mobile desk adapted to be supported by a support surface such as a floor, comprising: a base including a front base member and a rear base member , wherein the front and rear base members include rollers 1 that engage the support surface; an upwardly extending seat support member defining a lower end secured to the base; an upwardly extending worksurface support member defining a lower end secured to the base; a seat 7 secured to and supported above the base by the seat support member; and a worksurface 16 secured to and supported above the base by the worksurface support member, wherein the seat is secured to the seat support member via an adjustable height seat mounting arrangement for varying the height of the seat relative to the support surface, and wherein the worksurface is secured to the worksurface support member via an adjustable height worksurface mounting arrangement for varying the height of the worksurface relative to the support surface. While it appears the actuator rods 6b and 6c of Bujaryn are the same or function the same in adjusting the height of the seat as the actuator rod of the present invention, Onishi teaches an adjustable height seat mounting arrangement comprises a cylinder assembly including a cylinder and an extendible and retractable rod (not labeled), and further comprising an actuator (not labeled) secured to an underside defined by the seat for providing selective extension and retraction of the rod to adjust the height of the seat (See Figures 2 and 5). It would have been obvious and well within the level of ordinary

skill in the art to modify the desk, as taught by Bujaryn, to include an actuator rod, as taught by Onishi, since one actuator is an alternative convention method of adjusting the seat as the other.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Callegari (U.S. Patent No. 6,269,578 B1).

Bujaryn teaches the structure substantially as claimed including the worksurface support comprises an upstanding tubular member, and wherein the adjustable height worksurface mounting arrangement comprises a worksurface support stem depending from the worksurface and received within the upstanding tubular member but does not teach that the stem including a series of vertically spaced openings, and an engagement member adapted for engagement with the upstanding tubular member and with a selected one of the vertically spaced openings for positioning the worksurface at a selected height relative to the support surface. However, Callegari teaches a worksurface support comprises an upstanding tubular member, and wherein the adjustable height worksurface mounting arrangement comprises a worksurface support stem depending from the worksurface and received within the upstanding tubular member but does not teach that the stem including a series of vertically spaced openings, and an engagement member adapted for engagement with the upstanding tubular member and with a selected one of the vertically spaced openings for positioning the worksurface at a selected height relative to the support . It would have been obvious and well within the level of ordinary skill in the art to modify the desk, as

taught by Bujaryn, to include a height adjustment mechanism for the worksurface, as taught by Callegari, since the vertically spaced openings, and an engagement member adapted for engagement with the upstanding tubular member and with a selected one of the vertically spaced openings would be an easier method of adjusting the worksurface and since one is an alternative conventional method of the other.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Raftery (U.S. Patent No. 4,700,430).

Bujaryn teaches the structure substantially but does not teach that the casters are lockable. However, Raftery teaches lockable casters which rotation of the rollers is prevented due to the weight of the occupant. It would have been obvious and well within the level of ordinary skill in the art to modify the desk, as taught by Bujaryn in view of Childress ad Loescher, to include a lockable casters, as taught by Raftery, since the lockable casters would allow the casters to lock and prevent movement when desired or if needed.

Claims 10-12 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Chapman et al (U.S. Patent No. 2,747,654).

Bujaryn teaches the structure substantially as claimed including a worksurface support member comprises a tubular member defining an internal passage, and



wherein the worksurface is mounted to the worksurface support member via a stem depending from the worksurface and received within the internal passage of the worksurface support member, and wherein the worksurface height adjustment arrangement includes a variable position engagement arrangement interposed between the stem and the worksurface support member, wherein the front and rear transverse base members define spaced apart ends, and wherein the roller arrangement comprises a pair of front casters mounted one to each end of the front transverse base member, and a pair of laterally spaced fixed-position front and rear rollers mounted one to each end of the rear transverse base member, wherein each caster includes a wheel wherein each roller comprises a body member (the curved member to which each roller is attached but not labeled) secured to one of the outwardly facing ends of one of the base members, and a roller member carried by the body member, wherein the fixed-position front rollers are oriented generally parallel to the central axial base member and perpendicular to the front transverse base member so as to guide forward-rearward movement of the mobile desk on the support surface, and wherein the fixed-position rear rollers are oriented generally perpendicular to the central axial base member and parallel to the central section of the rear transverse base member so as to guide lateral movement of the mobile desk on the support, and an upwardly facing seat section and a forwardly facing back section but does not teach the handle arrangement as defined in claims 10-11. However, Chapman et al teach a handle arrangement that includes an opening in an upper area of the back section, wherein the opening is configured to receive a user's fingers. It would have been obvious and well within the level of ordinary

skill in the art to modify the desk, as taught by Bujaryn, to include a handle arrangement that includes an opening in an upper area of the back section, wherein the opening is configured to receive a user's fingers, as taught by Chapman et al, to enable the user to grasp the back section of the seat for moving the desk on the support.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bujaryn (U.S. Patent No. 5,542,746) in view of Chapman et al (U.S. Patent No. 2,747,654) as applied to claim 12 above, and further in view of Childress (U.S. Patent No. 2,296,705) and Loescher (U.S. Patent No. 5,749,121).

Bujaryn teaches the structure substantially as claimed but does not teach the tubular body as defined in claim 19. However, Childress and Loescher both teach the concept of rollers incorporated in end-type casters, each of which comprises a tubular body member positioned over one of the outwardly facing ends of one of the base members, and a roller member carried by the tubular body member to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the mobile desk, as taught by Bujaryn, to include a tubular base member in which end-type casters, with a tubular body member are positioned over one of the outwardly facing ends of one of the base members, as taught by Childress and Loescher, since such a shape or whether or not the base is tubular, is a design choice dependent on the manufacturer and the consumer and since one is an alternative conventional; method of attaching casters on a mobile structure that performs the same function and performs just as well as the other.

Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hanlon, Thaden, Peltier, Campanelli, Bleck, and Astel et al teach handle arrangements like that of the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney B. White/  
Primary Examiner  
Art Unit 3636  
October 23, 2008